IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Pakola *et al.*	Art Unit:	1651
Serial No.:	10/729,475	Examiner:	Allison M. Ford
Filing Date:	December 5, 2003	Conf. No.:	3082
Docket No.:	113476.122US1	Cust. No.:	23483
Title:	**Pharmacological Vitreolysis**		

CERTIFICATION UNDER 37 C.F.R. § 1.8(a)

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RESPONSE TO SECOND RESTRICTION REQUIREMENT PURSUANT TO 37 C.F.R. § 1.143

Sir:

This paper is being filed in response to the Office Action of *April 17, 2006*, in the above-identified patent application.

Claims 57-84 are pending in the instant application.

The Examiner required Restriction to one of the following inventions under 35 U.S.C. § 121:

Group I: Claims 57-61, 63-72, and 80-84, drawn to a method of treating a vitreoretinal disease or disorder, or a complication thereof, of an eye of a subject having such a disease or disorder, classified in class 604, subclass 521; and

Group II: Claims 57-65 and 73-84, drawn to a method of preventing a vitreoretinal disease or disorder of an eye of a subject at risk of developing such a disease or disorder,

classified in class 424, subclass 94.1. Applicants note that claim 61 is drawn to a method of treating, and not a method of preventing, a vitreoretinal disease or disorder, and thus may have been improperly included in Group II.

In order to be responsive to the outstanding Restriction Requirement, Applicants provisionally elect, with traverse, the claims of ***Group I, claims 57-61, 63-72, and 80-84*** for further prosecution on the merits. Applicants note that the Office Action has indicated that claim 57 links Groups I and II, and therefore, the Restriction Requirement between the linked inventions is subject to the non-allowance of linking claim 57.

Applicants traverse the requirement for restriction for the following reason. According to MPEP § 803, there are *two* criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent or distinct as claimed; **and**

(B) There would be a serious burden on the Examiner if restriction is not required.

The Office Action has alleged that inventions I and II are distinct; however, the Office Action provides no reasoning as to why it would pose a serious burden on the Examiner to examine the claims of Groups I and II together. Accordingly, in the absence of the bipartite showing required by MPEP § 803, Applicants respectfully aver that the Office Action has not met its burden of properly setting forth the grounds for the instant Restriction Requirement.

The Office Action further required election of a single species recited in claims 58, 67, 74, and 81 from the following:

(a) recombinant microplasmin;

(b) stabilized microplasmin; and

(c) stabilized, recombinant microplasmin.

Applicants elect ***recombinant microplasmin***, with traverse. The claims readable on the elected species are ***claims 57-61, 63-72, and 80-84.***

Applicants traverse the election of species requirement, because according to MPEP § 803.02, "if the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden,

the examiner ***must*** examine ***all*** the members of the Markush group in the claim on the merits, even though they may be directed to independent and distinct inventions." (emphasis added). In the instant case, the claims at issue recite 3 members – clearly, "sufficiently few in number" – and the members are closely related – all are forms of microplasmin. Accordingly, pursuant to MPEP § 803.02, Applicants aver that the election of species requirement set forth in the Office Action is improper. Therefore, Applicants respectfully request that this requirement be withdrawn and the claims be considered for their full scope.